

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 552

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO SPECIAL DISTRICTS; ENACTING THE INFRASTRUCTURE
DEVELOPMENT ZONE ACT; PROVIDING FOR THE CREATION OF
INFRASTRUCTURE DEVELOPMENT ZONES AND ELECTED BOARDS; PROVIDING
POWERS AND DUTIES; AUTHORIZING INFRASTRUCTURE DEVELOPMENT ZONES
TO PROVIDE SERVICES PURSUANT TO AN APPROVED SERVICE PLAN;
AUTHORIZING BOARDS TO ISSUE BONDS AND TO ENTER INTO OTHER DEBT
OBLIGATIONS; AUTHORIZING BOARDS TO LEVY PROPERTY TAXES AND
ASSESSMENTS, FEES, TOLLS AND OTHER CHARGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Infrastructure Development Zone Act".

Section 2. DEFINITIONS.--As used in the Infrastructure
Development Zone Act:

A. "approving authority" means the governing body

1 required by Section 9 or 13 of the Infrastructure Development
2 Zone Act to designate an election official to conduct the
3 organization election and exercise other duties pursuant to
4 that act;

5 B. "board" means the board of directors of an
6 infrastructure development zone;

7 C. "director" means a member of a board;

8 D. "eligible elector" means a person who is
9 registered to vote in New Mexico and who:

10 (1) has been a resident of the infrastructure
11 development zone or the area to be included in the
12 infrastructure development zone for not less than thirty days;
13 or

14 (2) is a taxpaying elector;

15 E. "governing body" means the governing body of a
16 municipality or the board of county commissioners of a county;

17 F. "infrastructure development zone" means a
18 political subdivision organized or acting pursuant to the
19 provisions of the Infrastructure Development Zone Act;

20 G. "publication" means printing one time, in one
21 newspaper of general circulation in the infrastructure
22 development zone or proposed infrastructure development zone if
23 there is such a newspaper, and, if not, then in a newspaper in
24 the county in which the infrastructure development zone or
25 proposed infrastructure development zone is located. If an

underscored material = new
[bracketed material] = delete

1 infrastructure development zone has territory within more than
2 one county and if publication cannot be made in one newspaper
3 of general circulation in the infrastructure development zone,
4 then one publication is required in a newspaper in each county
5 in which the infrastructure development zone is located and in
6 which the infrastructure development zone also has fifty or
7 more eligible electors;

8 H. "regular election" means the election on the
9 Tuesday succeeding the first Monday of May in every even-
10 numbered year, held for the purpose of electing members to the
11 board and for submission of other questions, if any;

12 I. "secretary" means the secretary of a board;

13 J. "services" means any improvements and facilities
14 listed in this subsection, including both on-site improvements
15 and off-site improvements that directly or indirectly benefit
16 the infrastructure development zone and necessary or incidental
17 work, whether newly constructed, renovated or existing, and all
18 necessary or desirable appurtenances. "Services" include:

19 (1) sanitary sewage systems, including
20 collection, transport, storage, treatment, dispersal, effluent
21 use and discharge;

22 (2) drainage and flood control systems,
23 including collection, transport, diversion, storage, detention,
24 retention, dispersal, use and discharge;

25 (3) water systems for domestic, commercial,

.174854.2

underscored material = new
[bracketed material] = delete

1 office, hotel or motel, industrial, irrigation, municipal or
2 fire protection purposes, including production, collection,
3 storage, treatment, transport, delivery, connection and
4 dispersal;

5 (4) highways, streets, roadways, bridges,
6 crossing structures and parking facilities, including all areas
7 for vehicular use for travel, ingress, egress and parking;

8 (5) trails and areas for pedestrian,
9 equestrian, bicycle or other nonmotor vehicle use for travel,
10 ingress, egress and parking;

11 (6) pedestrian malls, parks, recreational
12 facilities and open space areas for the use of members of the
13 public for entertainment, assembly and recreation, including
14 programming events for the community and public;

15 (7) landscaping, including earthworks,
16 structures, lakes and other water features, plants, trees and
17 related water delivery systems;

18 (8) public buildings, public safety facilities
19 and fire protection and police facilities;

20 (9) electrical and energy generation,
21 transmission and distribution facilities, including solar, wind
22 and geothermal;

23 (10) natural gas distribution facilities;

24 (11) lighting systems;

25 (12) cable or other telecommunications lines

.174854.2

underscoring material = new
[bracketed material] = delete

1 and related equipment, including fiber optic transmission
2 facilities designed to carry communication signals such as
3 voice, data and video;

4 (13) traffic control systems and devices,
5 including signals, controls, markings and signage;

6 (14) school sites and facilities with the
7 consent of the governing board of the public school district
8 for which the site or facility is to be acquired, constructed
9 or renovated;

10 (15) library and other public educational or
11 cultural facilities;

12 (16) equipment, vehicles, furnishings and
13 other personalty related to the items listed in this
14 subsection;

15 (17) inspection, construction management and
16 program management costs;

17 (18) solid waste and garbage collection and
18 disposal; and

19 (19) economic development; and

20 K. "taxpaying elector" means a person:

21 (1) who, or whose spouse, owns taxable real or
22 personal property within the infrastructure development zone or
23 the area to be included in or excluded from the infrastructure
24 development zone, whether the person resides within the
25 infrastructure development zone or not; or

.174854.2

underscored material = new
[bracketed material] = delete

1 (2) who is obligated to pay taxes under a
2 contract to purchase taxable property within the infrastructure
3 development zone or the area to be included in or excluded from
4 the infrastructure development zone, whether the person resides
5 within the infrastructure development zone or not.

6 Section 3. ORGANIZATION OF INFRASTRUCTURE DEVELOPMENT
7 ZONE--SUBMISSION OF SERVICE PLAN.--

8 A. An infrastructure development zone may be
9 entirely within or entirely without, or partly within and
10 partly without, one or more municipalities or counties, and an
11 infrastructure development zone may consist of noncontiguous
12 tracts or parcels of property.

13 B. Persons proposing the organization of an
14 infrastructure development zone shall submit a petition, a
15 service plan and any required processing fee sufficient to
16 defray the costs of the applicable county or municipality to:

17 (1) the governing body of each municipality
18 within the planning and platting jurisdiction of which lies any
19 area within the proposed infrastructure development zone; and

20 (2) the governing body of each county in which
21 lies any area within the proposed infrastructure development
22 zone that is not within the planning and platting jurisdiction
23 of a municipality.

24 C. The petition shall be signed by not less than
25 thirty percent or two hundred of the taxpaying electors of the

underscored material = new
[bracketed material] = delete

1 proposed infrastructure development zone, whichever number is
2 smaller. The petition shall set forth:

3 (1) the name of the proposed infrastructure
4 development zone;

5 (2) a statement as to whether the proposed
6 infrastructure development zone lies wholly or partly within
7 another county, municipality or other infrastructure
8 development zone;

9 (3) a description of the boundaries of the
10 proposed infrastructure development zone or the territory to be
11 included therein, with such certainty as to enable a property
12 owner to determine whether or not the property owner's property
13 is within the proposed infrastructure development zone;

14 (4) a request for the organization of the
15 infrastructure development zone; and

16 (5) a request for the submission to the
17 eligible electors of the proposed infrastructure development
18 zone at the organization election of any questions permitted to
19 be submitted at the organization election pursuant to Section
20 10 of the Infrastructure Development Zone Act.

21 D. The service plan shall contain the following:

22 (1) a description of the proposed services;

23 (2) a financial plan showing how the proposed
24 services are to be financed, including the proposed operating
25 revenue derived from property taxes for the first budget year

.174854.2

underscored material = new
[bracketed material] = delete

1 of the proposed infrastructure development zone;

2 (3) a schedule of the proposed indebtedness
3 for the proposed infrastructure development zone indicating the
4 year or years in which the debt is scheduled to be issued;

5 (4) a preliminary engineering or architectural
6 survey showing how the proposed services are to be provided;

7 (5) a map of the proposed infrastructure
8 development zone boundaries and an estimate of the population
9 and valuation for assessment of the proposed infrastructure
10 development zone;

11 (6) a general description of the facilities to
12 be constructed and the standards of the construction, including
13 a statement of how the facility and service standards of the
14 proposed infrastructure development zone are compatible with
15 the facility and service standards of any county or
16 municipality within the zoning jurisdiction of which all or any
17 portion of the proposed infrastructure development zone is to
18 be located;

19 (7) a general description of the estimated
20 cost of acquiring land, engineering services, legal services,
21 administrative services, initial proposed indebtedness and
22 estimated proposed maximum interest rates and discounts, and
23 other major expenses related to the organization and initial
24 operation of the proposed infrastructure development zone;

25 (8) a description of any arrangement or

.174854.2

underscoring material = new
[bracketed material] = delete

1 proposed agreement with any political subdivision for the
2 performance of any services between the proposed infrastructure
3 development zone and the other political subdivision,
4 including, if the form contract to be used is available, a copy
5 of the contract; and

6 (9) such additional information as the
7 governing body may require by resolution on which to base its
8 findings pursuant to Section 7 of the Infrastructure
9 Development Zone Act.

10 Section 4. PUBLIC HEARING REQUIRED.--

11 A. After receiving a petition and a service plan,
12 the governing body shall set a date within sixty days for a
13 public hearing on the petition and service plan of the proposed
14 infrastructure development zone. The governing body shall
15 provide written notice of the date, time and location of the
16 hearing to the petitioners, each resident or property owner of
17 record within the boundaries of the proposed infrastructure
18 development zone and any existing county, municipality, school
19 district or other political subdivision that has levied an ad
20 valorem tax within the next preceding tax year and that has
21 boundaries within a radius of three miles of the proposed
22 infrastructure development zone boundaries, which governmental
23 units shall be interested parties for the purposes of
24 Subsection C of this section. Notice shall also be given to
25 any person who has requested that notice be given for any

.174854.2

underscoring material = new
~~[bracketed material] = delete~~

1 petition filed pursuant to the Infrastructure Development Zone
2 Act. The governing body shall make publication of the date,
3 time, location and purpose of the hearing, the first of which
4 shall be at least twenty days prior to the hearing date. The
5 notice shall also include:

6 (1) a general description of the land
7 contained within the boundaries of the proposed infrastructure
8 development zone;

9 (2) information outlining methods and
10 procedures for excluding territory from the proposed
11 infrastructure development zone; and

12 (3) places, including web sites, where
13 interested persons may obtain a copy of the petition and the
14 service plan.

15 B. Not more than thirty days nor less than twenty
16 days prior to the hearing held pursuant to this section, the
17 petitioners for the organization of the proposed infrastructure
18 development zone shall send letter notification of the hearing
19 to the property owners within the proposed infrastructure
20 development zone as listed on the records of the county clerk
21 on the date requested unless the petitioners represent one
22 hundred percent of the property owners. The notification shall
23 indicate that it is a notice of a hearing for the organization
24 of an infrastructure development zone and shall indicate the
25 date, time, location and purpose of the hearing, a general

.174854.2

underscored material = new
[bracketed material] = delete

1 description of the type of services that are included in the
2 service plan, the maximum mill levy, if any, or stating that
3 there is no maximum that may be imposed by the proposed
4 infrastructure development zone, and procedures for the filing
5 of a request for exclusion pursuant to Section 6 of the
6 Infrastructure Development Zone Act. The mailing of the letter
7 notification to all addresses within the proposed
8 infrastructure development zone shall constitute a good-faith
9 effort to comply with this subsection, and failure to notify
10 all property owners by letter notification shall not provide
11 grounds for a challenge to the hearing being held.

12 C. The hearing held by the governing body shall be
13 open to the public, and a record of the proceedings shall be
14 made. All interested parties shall be afforded an opportunity
15 to be heard under such rules of procedure as may be established
16 by the governing body. Any testimony or evidence that in the
17 discretion of the governing body is relevant to the
18 organization of the proposed infrastructure development zone
19 shall be considered.

20 Section 5. OBJECTING PETITION--PLAN TO BE DISAPPROVED.--
21 No service plan shall be approved if a petition objects to the
22 service plan and is signed by the owners of taxable real and
23 personal property, consisting of more than fifty percent of the
24 total assessed value of all taxable real and personal property
25 to be included in the proposed infrastructure development zone,
.174854.2

underscored material = new
[bracketed material] = delete

1 is filed with the governing body no later than ten days prior
2 to the hearing pursuant to Section 4 of the Infrastructure
3 Development Zone Act, unless the property has been excluded by
4 the governing body under Section 6 of that act.

5 Section 6. REQUEST FOR EXCLUSION.--

6 A. The governing body may exclude territory from a
7 proposed infrastructure development zone prior to approval of
8 the service plan. Any person owning property in the proposed
9 infrastructure development zone who requests that the person's
10 property be excluded from the infrastructure development zone
11 prior to approval of the service plan shall submit the request
12 to the governing body no later than ten days prior to the
13 hearing held pursuant to Section 4 of the Infrastructure
14 Development Zone Act. The petitioners who submitted the
15 service plan shall have the burden of proving that the
16 exclusion of the property is not in the best interests of the
17 proposed infrastructure development zone. Any request for
18 exclusion shall be acted upon before final action of the
19 governing body pursuant to Section 7 of the Infrastructure
20 Development Zone Act.

21 B. The governing board shall exclude property
22 located in the planning and platting jurisdiction of any home
23 rule municipality in respect to which a request for exclusion
24 has been filed by the municipality.

25 Section 7. ACTION ON PETITION AND SERVICE PLAN--

.174854.2

underscored material = new
[bracketed material] = delete

1 CRITERIA.--

2 A. Within twenty days of a hearing held pursuant to
3 Section 4 of the Infrastructure Development Zone Act, the
4 governing body shall disapprove the service plan, approve the
5 service plan as submitted or conditionally approve the service
6 plan subject to the submission of additional information
7 relating to or modifying the proposed service plan.

8 B. The governing body shall disapprove the service
9 plan unless evidence, satisfactory to the governing body, is
10 presented that:

11 (1) the required number of taxpaying electors
12 of the proposed infrastructure development zone have signed the
13 petition;

14 (2) there is sufficient existing or projected
15 need for organized service in the area to be serviced by the
16 proposed infrastructure development zone;

17 (3) the existing service in the area to be
18 served by the proposed infrastructure development zone is
19 inadequate for present or projected needs;

20 (4) the proposed infrastructure development
21 zone will be capable of providing economical and sufficient
22 service to the area within its proposed boundaries; and

23 (5) the area to be included in the proposed
24 infrastructure development zone has, or will have, the
25 financial ability to discharge the proposed indebtedness on a

.174854.2

underscored material = new
[bracketed material] = delete

1 reasonable basis.

2 C. The governing body may disapprove the service
3 plan if evidence, satisfactory to the governing body, and at
4 the discretion of the governing body, is not presented that:

5 (1) adequate service is not, or will not be,
6 available to the area through the municipality, county or other
7 existing political subdivisions, including existing
8 infrastructure development zones, within a reasonable time and
9 on a comparable basis;

10 (2) the facility and service standards of the
11 proposed infrastructure development zone are compatible with
12 the facility and service standards of each county or municipal
13 planning and platting jurisdiction within which the proposed
14 infrastructure development zone is to be located;

15 (3) the proposal is in substantial compliance
16 with a master plan adopted pursuant to Section 3-19-9 NMSA
17 1978;

18 (4) the proposal is in compliance with any
19 existing municipal, county, regional or state long-range water
20 quality management plan for the area; or

21 (5) the creation of the proposed
22 infrastructure development zone will be in the best interests
23 of the area proposed to be served.

24 D. The governing body may conditionally approve the
25 service plan of a proposed infrastructure development zone upon

.174854.2

underscoring material = new
[bracketed material] = delete

1 satisfactory evidence that it does not comply with one or more
2 of the criteria enumerated in Subsection C of this section.
3 Final approval shall be contingent upon modification of the
4 service plan to include such changes or additional information
5 as shall be specifically stated in the findings of the
6 governing body.

7 E. The findings of the governing body shall be
8 based solely upon the service plan and evidence presented at
9 the hearing by the petitioners and any interested party.

10 Section 8. APPROVAL OF SERVICE PLAN--PETITION GRANTED--
11 ELECTION SCHEDULED.--

12 A. If the service plan is approved as submitted,
13 the governing body shall issue a resolution of approval to the
14 petitioners. If the service plan is disapproved, the specific
15 detailed reasons for the disapproval shall be set forth in
16 writing. If the service plan is conditionally approved, the
17 changes or modifications to be made in, or additional
18 information relating to, the service plan, together with the
19 reasons for the changes, modifications or additional
20 information, shall also be set forth in writing, and the
21 proceeding shall be continued until the changes, modifications
22 or additional information are incorporated in the service plan.
23 Upon the incorporation of the changes, modifications or
24 additional information in the service plan of the proposed
25 infrastructure development zone, the governing body shall issue

.174854.2

underscored material = new
[bracketed material] = delete

1 a resolution of approval to the petitioners.

2 B. Upon the approval of the service plan by each
3 governing body to which the service plan and petition were
4 submitted, the petition shall be granted and the approving
5 authority shall designate an election official to take the oath
6 required of precinct board members and conduct an organization
7 election pursuant to Sections 10 and 20 of the Infrastructure
8 Development Zone Act, provided that no organization election
9 shall be held if all of the eligible electors were petitioners
10 and if there are no competing candidates for director
11 positions.

12 C. Any interested party aggrieved by the decision
13 of the governing body may appeal to the district court pursuant
14 to Section 39-3-1.1 NMSA 1978.

15 Section 9. DESIGNATION OF APPROVING AUTHORITY.--

16 A. The approving authority shall be:

17 (1) for an infrastructure development zone
18 located entirely within one county and outside the planning and
19 platting jurisdiction of a municipality, the governing body of
20 that county;

21 (2) for an infrastructure development zone
22 located entirely within the planning and platting jurisdiction
23 of a municipality, the governing body of that municipality;

24 (3) except as provided in Subsection B of this
25 section, for an infrastructure development zone that is not

.174854.2

underscored material = new
[bracketed material] = delete

1 described in Paragraph (1) or (2) of this subsection and of
2 which the majority of its acreage lies outside a municipal
3 planning and platting jurisdiction, the governing body of the
4 county containing the most acreage outside of a planning and
5 platting jurisdiction of a municipality; or

6 (4) except as provided in Subsection B of this
7 section, for an infrastructure development zone that is not
8 described in Paragraph (1) or (2) of this subsection and of
9 which the majority of its acreage lies within a municipal
10 planning and platting jurisdiction, the governing body of that
11 municipality.

12 B. For an infrastructure development zone that is
13 not described in Paragraph (1) or (2) of Subsection A of this
14 section, in lieu of the approving authority designated pursuant
15 to Paragraph (3) or (4) of that subsection, all of the
16 governing bodies that approved the petition and service plan of
17 the infrastructure development zone may jointly designate a
18 governing body, in the zoning jurisdiction of which lies any
19 portion of the infrastructure development zone, as the
20 approving authority.

21 Section 10. ORGANIZATION ELECTION.--

22 A. The election official designated by the
23 approving authority shall conduct the organization election
24 pursuant to this section and Section 20 of the Infrastructure
25 Development Zone Act.

.174854.2

underscored material = new
~~[bracketed material] = delete~~

1 B. At the election, the eligible electors shall
2 vote for or against the organization of the proposed
3 infrastructure development zone, shall vote for five eligible
4 electors of the infrastructure development zone who shall be
5 the initial directors of the board of the infrastructure
6 development zone, if organized and shall vote for or against
7 general obligation bonds or other general obligations if the
8 petition filed pursuant to Section 3 of the Infrastructure
9 Development Zone Act requests that the questions be submitted
10 at the organization election.

11 C. If the majority of the votes cast at the
12 election are in favor of the organization, the approving
13 authority shall, by resolution, declare the infrastructure
14 development zone organized and give the infrastructure
15 development zone the corporate name designated in the petition,
16 by which it shall thereafter be known in all proceedings, and
17 designate the first board elected. Thereupon the
18 infrastructure development zone shall be a quasi-municipal
19 corporation and a political subdivision of the state with all
20 the powers thereof.

21 D. The resolution declaring the infrastructure
22 development zone organized shall be deemed final and no appeal
23 or other remedy shall lie therefrom. The resolution shall
24 finally and conclusively establish the regular organization of
25 the infrastructure development zone against all persons except

.174854.2

underscored material = new
[bracketed material] = delete

1 the state in an action in the nature of quo warranto commenced
2 by the attorney general within thirty days after the resolution
3 is passed, and the organization of the infrastructure
4 development zone shall not be directly or collaterally
5 questioned in any suit, action or proceeding except as
6 expressly authorized in this subsection.

7 Section 11. FILING RESOLUTION AND SERVICE PLAN.--Within
8 thirty days after the effective date of the resolution
9 declaring that an infrastructure development zone has been
10 organized, the original petitioners shall file the resolution,
11 the approved service plan and a map of the infrastructure
12 development zone with the county clerk in each of the counties
13 in which the infrastructure development zone is located and
14 with the local government division of the department of finance
15 and administration. Thereafter, the infrastructure development
16 zone shall maintain a current, accurate map of its boundaries
17 and shall file the map with each county clerk on or before
18 January 1 of each year.

19 Section 12. SERVICE AREA OF INFRASTRUCTURE DEVELOPMENT
20 ZONES--OVERLAPPING DISTRICTS.--

21 A. Except as provided in Subsection B of this
22 section, no infrastructure development zone may be organized
23 wholly or partly within an existing special district or
24 infrastructure development zone that provides the same service;
25 provided that nothing in this subsection shall prevent an

.174854.2

1 infrastructure development zone that provides different
2 services from organizing wholly or partly within an existing
3 special district or infrastructure development zone.

4 B. An overlapping district may be authorized to
5 provide the same service as the existing special district or
6 infrastructure development zone that the overlapping district
7 overlaps or will overlap if:

8 (1) where the service plan of the overlapping
9 district is subject to approval by a governing body, the
10 governing body having jurisdiction over the overlapping
11 territory approves by resolution the inclusion of the service
12 as part of the service plan of the overlapping district;

13 (2) the improvements or facilities to be
14 financed, established or operated by the overlapping district
15 for the provision of the same service as the existing special
16 district or infrastructure development zone do not duplicate or
17 interfere with any other improvements or facilities already
18 constructed or planned to be constructed within the portion of
19 the existing special district or infrastructure development
20 zone that the overlapping district overlaps or will overlap;
21 and

22 (3) the board of directors of any special
23 district or infrastructure development zone authorized to
24 provide a service within the boundaries of the overlapping area
25 consents to the overlapping district providing the same

.174854.2

underscored material = new
[bracketed material] = delete

1 service.

2 C. As used in this section:

3 (1) "overlapping district" means a new or
4 existing special district or infrastructure development zone
5 located wholly or partly within an existing special district or
6 infrastructure development zone; and

7 (2) "special district" means any single or
8 multipurpose district organized or that may be organized as a
9 local public body of this state for the purpose of constructing
10 and furnishing any urban-oriented service that another
11 political subdivision of the state is authorized to perform.

12 Section 13. APPROVAL BY AN ANNEXING MUNICIPALITY.--

13 A. If an infrastructure development zone that was
14 not originally approved by the governing body of a municipality
15 becomes wholly contained within the boundaries of the planning
16 and platting jurisdiction of a municipality by annexation, the
17 board may petition the governing body of the municipality to
18 accept a designation as the approving authority for the
19 infrastructure development zone. The municipality may accept
20 the designation through the adoption of a resolution of
21 approval by the governing body of the municipality.

22 B. Upon the adoption of the resolution by the
23 governing body of a municipality pursuant to Subsection A of
24 this section, all powers and authorities vested in the
25 approving authority pursuant to the Infrastructure Development

.174854.2

underscored material = new
[bracketed material] = delete

1 Zone Act shall be transferred to the governing body of the
2 municipality, which shall constitute the approving authority
3 for the infrastructure development zone for all purposes under
4 that act.

5 Section 14. SERVICE PLAN--COMPLIANCE--MODIFICATION--
6 ENFORCEMENT.--

7 A. Upon the organization of an infrastructure
8 development zone, the facilities, services and financial
9 arrangements of the infrastructure development zone shall
10 conform so far as practicable to the approved service plan.

11 B. After the organization of an infrastructure
12 development zone, material modifications of the service plan as
13 originally approved may be made by the board only by petition
14 to and approval by each governing body that approved the
15 original service plan or that became an approving authority
16 under Section 13 of the Infrastructure Development Zone Act in
17 substantially the same manner as is provided for the approval
18 of an original service plan; but the processing fee for the
19 modification procedure shall not exceed the reasonable and
20 actual cost incurred by the governing body. The approval of
21 modifications shall be required only with regard to changes of
22 a basic or essential nature, including:

23 (1) an addition to the types of services
24 provided by the infrastructure development zone;

25 (2) a decrease in the level of services;

.174854.2

underscored material = new
[bracketed material] = delete

1 (3) a decrease in the financial ability of the
2 infrastructure development zone to discharge the existing or
3 proposed indebtedness; or

4 (4) a decrease in the existing or projected
5 need for organized service in the area.

6 C. Approval for a modification is not required for
7 changes necessary only for the execution of the original
8 service plan or for changes in the boundary of the
9 infrastructure development zone; except that the inclusion of
10 property that is located in a county or a municipal planning
11 and platting jurisdiction with no other territory within the
12 infrastructure development zone may constitute a material
13 modification of the service plan or the statement of purposes
14 of the infrastructure development zone. In the event that an
15 infrastructure development zone changes its boundaries to
16 include territory located in a county or municipal planning and
17 platting jurisdiction with no other territory within the
18 infrastructure development zone, the board shall notify the
19 governing body of the county or municipality of the inclusion.
20 The governing body may review the inclusion and, if it
21 determines that the inclusion constitutes a material
22 modification, may require the board to file a modification of
23 its service plan in accordance with the provisions of this
24 section.

25 D. No action may be brought to enjoin the

.174854.2

underscored material = new
[bracketed material] = delete

1 construction of any facility, the issuance of bonds or other
2 financial obligations, the levy of taxes, the imposition of
3 rates, fees, tolls and charges or any other proposed activity
4 of the infrastructure development zone unless the action is
5 commenced within forty-five days after the board has published
6 notice of its intention to undertake the activity. The notice
7 shall describe the activity proposed to be undertaken by the
8 infrastructure development zone and shall provide that any
9 action to enjoin the activity as a material departure from the
10 service plan shall be brought within forty-five days from
11 publication of the notice. The notice shall be published one
12 time in a newspaper of general circulation in the
13 infrastructure development zone. On or before the date of
14 publication of the notice, the board shall also mail the notice
15 to each approving authority.

16 Section 15. INCLUSION OF TERRITORY--PROCEDURE.--

17 A. Additional territory may be added to an
18 infrastructure development zone without an election pursuant to
19 the following provisions:

20 (1) the boundaries of an infrastructure
21 development zone may be altered by the inclusion of additional
22 real property by the fee owners of one hundred percent of any
23 real property capable of being served with facilities of the
24 infrastructure development zone filing with the board a
25 petition in writing requesting that the property be included in

.174854.2

underscoring material = new
[bracketed material] = delete

1 the infrastructure development zone. The petition shall
2 include a legal description of the property, shall state that
3 assent to the inclusion of the property in the infrastructure
4 development zone is given by the fee owners thereof and shall
5 be acknowledged by the fee owners in the same manner as
6 required for conveyance of land;

7 (2) the board shall hear the petition at a
8 public meeting after publication of notice of the filing of the
9 petition, the place, time and date of the meeting, the names
10 and addresses of the petitioners and notice that all persons
11 interested shall appear at the time and place and show cause in
12 writing why the petition should not be granted. There shall be
13 no withdrawal from a petition after publication of notice by
14 the board without the consent of the board. The failure of any
15 municipality or county that may be able to provide service to
16 the real property described in the petition, or of any person
17 in the existing infrastructure development zone to file a
18 written objection, shall be taken as an assent to the inclusion
19 of the area described in the notice;

20 (3) the board shall grant or deny the
21 petition, in whole or in part, with or without conditions, and
22 the action of the board shall be final and conclusive, except
23 as provided in Paragraph (4) of this subsection. If a
24 municipality or county has filed a written objection to the
25 inclusion, the board shall not grant the petition as to any of

.174854.2

underscoring material = new
[bracketed material] = delete

1 the real property to which adequate service is, or will be,
2 available from the municipality or county within a reasonable
3 time and on a comparable basis. If a petition is granted as to
4 all or any of the real property, the board shall make an order
5 to that effect and file the order with the county clerk of each
6 county in which any part of the infrastructure development zone
7 is located, and the property shall thereafter be included in
8 the infrastructure development zone; and

9 (4) a municipality or county that has filed a
10 written objection to the inclusion and that can provide
11 adequate service to the real property described in the petition
12 within a reasonable time and on a comparable basis may bring an
13 action in the district court for the county in which the land
14 proposed to be included is located, commenced within thirty
15 days after entry of the order of the board, to determine
16 whether the action of the board granting the inclusion was
17 arbitrary, capricious or unreasonable.

18 B. In addition to the procedures specified in
19 Subsection A of this section, additional territory may also be
20 added to an infrastructure development zone pursuant to the
21 following provisions:

22 (1) either:

23 (a) not less than twenty percent or two
24 hundred, whichever number is smaller, of the taxpaying electors
25 of an area that contains twenty-five thousand or more square

.174854.2

underscored material = new
~~[bracketed material] = delete~~

1 feet of land may file a petition with the board in writing
2 requesting that the area be included within the infrastructure
3 development zone; except that no single tract of property
4 constituting more than fifty percent of the total area to be
5 included may be included in any infrastructure development zone
6 without the consent of the owner thereof. The petition shall
7 set forth a legal and a general description of the area to be
8 included and shall be acknowledged in the same manner as
9 required for conveyance of land; or

10 (b) the board may adopt a resolution
11 proposing the inclusion of a specifically described area; but
12 no single tract or parcel of property constituting more than
13 fifty percent of the total area to be included may be included
14 in an infrastructure development zone without the consent of
15 the owner thereof;

16 (2) nothing in this subsection shall permit
17 the inclusion in an infrastructure development zone of any
18 property if a petition that objects to the inclusion and that
19 is signed by the owners of taxable real and personal property,
20 which property equals more than fifty percent of the total
21 assessed value of all taxable real and personal property to be
22 included, is filed with the board no later than ten days prior
23 to the public meeting held under Paragraph (3) of this
24 subsection;

25 (3) upon the filing of a petition or the

.174854.2

underscoring material = new
~~[bracketed material] = delete~~

1 adoption of a resolution pursuant to Paragraph (1) of this
2 subsection, the board shall hear the petition or resolution at
3 a public meeting after publication of notice of the filing of
4 the petition or adoption of the resolution, the place, time and
5 date of the meeting, the names and addresses of the
6 petitioners, if applicable, the description of the area
7 proposed for inclusion and notice that all persons interested
8 and any municipality or county that may be able to provide
9 service to the real property therein described shall appear at
10 the time and place stated and show cause in writing why the
11 petition should not be granted or the resolution not finally
12 adopted. There shall be no withdrawal from a petition after
13 publication of notice by the board without the consent of the
14 board. The failure of any person in the existing
15 infrastructure development zone to file a written objection
16 shall be taken as an assent on that person's part to the
17 inclusion of the area described in the notice;

18 (4) after a hearing pursuant to Paragraph (3)
19 of this subsection, the board shall grant or deny the petition
20 or finally adopt the resolution, in whole or in part, with or
21 without conditions, and, subject to an election conducted
22 pursuant to Paragraph (6) of this subsection, the action of the
23 board shall be final and conclusive, except as provided in
24 Paragraph (5) of this subsection. If a municipality or county
25 has filed a written objection to the inclusion, the board shall

.174854.2

underscored material = new
[bracketed material] = delete

1 not grant the petition or finally adopt the resolution as to
2 any of the real property to which adequate service is, or will
3 be, available from the municipality or county within a
4 reasonable time and on a comparable basis;

5 (5) a municipality or county that has filed a
6 written objection to the inclusion and that can provide
7 adequate service to the real property described in the petition
8 within a reasonable time and on a comparable basis may bring an
9 action in the district court for the county in which the area
10 proposed to be included is located, commenced within thirty
11 days after entry of the order of the board, to determine
12 whether the action of the board granting the inclusion was
13 arbitrary, capricious or unreasonable;

14 (6) upon final action by a board pursuant to
15 Paragraph (4) of this subsection or affirmation by a district
16 court pursuant to Paragraph (5) of this subsection, an election
17 shall be held within the area sought to be included. The
18 secretary shall give published notice of the time and place of
19 the election and of the question to be submitted, together with
20 a summary of any conditions attached to the proposed inclusion.
21 The ballot shall be prepared by the board and shall
22 substantially contain the following words:

23 "Shall the following described area become a part of the
24 infrastructure development zone upon the
25 following conditions, if any?

.174854.2

underscored material = new
[bracketed material] = delete

1 (Insert description of area)

2 (Insert accurate summary of conditions)

3 For inclusion

4 Against inclusion"

5 (7) if the majority of the votes cast at the
6 election are in favor of inclusion, the election official shall
7 enter an order including any conditions so prescribed and
8 making the area a part of the infrastructure development zone.
9 The validity of the inclusion shall not be questioned directly
10 or indirectly in any suit, action or proceeding; and

11 (8) nothing in this subsection shall permit
12 the inclusion in an infrastructure development zone of any
13 property that could not be included in the infrastructure
14 development zone at the time of its organization without the
15 written consent of the owners thereof, unless the owners of the
16 property consent in writing to the inclusion of the property in
17 the infrastructure development zone in a petition filed
18 pursuant to this section or unless the property is no longer
19 excludable pursuant to the provisions of Paragraph (4) of this
20 subsection.

21 C. Nothing in this section shall be construed to
22 permit the inclusion in an infrastructure development zone of
23 any real property located in a municipal planning and platting
24 jurisdiction or a county outside a municipal planning and
25 platting jurisdiction unless the governing body of the

.174854.2

underscored material = new
~~[bracketed material] = delete~~

1 municipality or county has adopted a resolution of approval
2 authorizing the inclusion or waives its right to require the
3 resolution in its sole discretion. Any resolution of approval
4 so adopted or waiver so given shall be appended to any petition
5 filed pursuant to Paragraph (1) of Subsection A of this section
6 or Subparagraph (a) of Paragraph (1) of Subsection B of this
7 section.

8 D. Not more than thirty days nor less than twenty
9 days prior to a meeting of the board held pursuant to Paragraph
10 (2) of Subsection A of this section or Paragraph (3) of
11 Subsection B of this section, the secretary shall send letter
12 notification of the meeting to the property owners within the
13 area proposed to be included within the infrastructure
14 development zone as listed on the records of the county clerk
15 on the date requested. The notification shall indicate that it
16 is a notice of a meeting for consideration of the inclusion of
17 real property within an infrastructure development zone and
18 shall indicate the date, time, location and purpose of the
19 meeting, a reference to the services of the infrastructure
20 development zone as described in the service plan, the maximum
21 mill levy, if any, or stating that there is no maximum that may
22 be imposed if the proposed area is included within the
23 infrastructure development zone, and procedures for the filing
24 of a petition for exclusion pursuant to Paragraph (4) of
25 Subsection B of this section. Except as provided in this

.174854.2

underscoring material = new
[bracketed material] = delete

1 subsection, the mailing of the letter notification to all
2 addresses within the area proposed to be included within the
3 infrastructure development zone shall constitute a good-faith
4 effort to comply with this section, and failure to notify all
5 electors by letter notification shall not provide grounds for a
6 challenge to the meeting being held.

7 Section 16. EFFECT OF INCLUSION ORDER.--The following
8 shall be applicable to any proceeding for inclusion
9 accomplished pursuant to Section 15 of the Infrastructure
10 Development Zone Act:

11 A. nothing in Section 15 of the Infrastructure
12 Development Zone Act shall affect the validity of any area or
13 property included or excluded from an infrastructure
14 development zone by virtue of prior laws;

15 B. after the date of its inclusion in an
16 infrastructure development zone, the property shall be subject
17 to all of the taxes and charges imposed by the infrastructure
18 development zone and shall be liable for its proportionate
19 share of existing bonded indebtedness of the infrastructure
20 development zone; but it shall not be liable for any taxes or
21 charges levied or assessed prior to its inclusion in the
22 infrastructure development zone nor shall its entry into the
23 infrastructure development zone be made subject to or
24 contingent upon the payment or assumption of any tax, rate,
25 fee, toll or charge other than the taxes, rates, fees, tolls

.174854.2

underscoring material = new
[bracketed material] = delete

1 and charges that are uniformly made, assessed or levied for the
2 entire infrastructure development zone, without the prior
3 consent of the fee owners or approval of the electors of the
4 area to be included;

5 C. in the infrastructure development zone, the
6 included property shall be liable for its proportionate share
7 of annual operation and maintenance charges and the cost of
8 services of the infrastructure development zone and taxes,
9 rates, fees, tolls or charges shall be certified and levied or
10 assessed therefor; provided that nothing in this section shall
11 prevent an agreement between a board and the owners of property
12 sought to be included in an infrastructure development zone
13 with respect to the fees, charges, terms and conditions on
14 which the property may be included;

15 D. the change of boundaries of the infrastructure
16 development zone shall not impair nor affect its organization
17 nor shall it affect, impair or discharge any contract,
18 obligation, lien or charge on which it might be liable or
19 chargeable had the change of boundaries not been made;

20 E. the order of any inclusion of territory
21 accomplished pursuant to Section 15 of the Infrastructure
22 Development Zone Act shall be filed in accordance with the
23 provisions of Section 11 of that act; and

24 F. the infrastructure development zone's facility
25 and service standards that are applied within the included area

.174854.2

underscored material = new
[bracketed material] = delete

1 shall be compatible with the facility and service standards of
2 adjacent municipalities.

3 Section 17. EXCLUSION OF TERRITORY.--

4 A. The boundaries of an infrastructure development
5 zone may be altered by the exclusion of real property by the
6 fee owners of one hundred percent of any real property situate
7 in the infrastructure development zone filing with the board a
8 petition requesting that the real property of the fee owners be
9 excluded and taken from the infrastructure development zone.
10 The petition shall set forth a legal description of the
11 property, shall state that assent to the exclusion of the
12 property from the infrastructure development zone is given by
13 the fee owners thereof and shall be acknowledged by the fee
14 owners in the same manner as required for conveyance of land.
15 The petition shall be accompanied by a deposit of money
16 sufficient to pay all costs of the exclusion proceedings.

17 B. The board shall hear the petition at a public
18 meeting after publication of notice of the filing of the
19 petition, the place, time and date of the meeting, the names
20 and addresses of the petitioners, a general description of the
21 area proposed for exclusion and notice that all persons
22 interested shall appear at the designated time and place and
23 show cause in writing why the petition should not be granted.
24 There shall be no withdrawal from a petition after publication
25 of notice by the board without the consent of the board. The

.174854.2

1 failure of any person in the existing infrastructure
2 development zone to file a written objection shall be taken as
3 an assent on that person's part to the exclusion of the area
4 described in the notice.

5 C. The board shall take into consideration and make
6 a finding regarding all of the following factors when
7 determining whether to grant or deny the petition or any
8 portion thereof:

9 (1) the best interests of all of the
10 following:

11 (a) the property to be excluded;

12 (b) the infrastructure development zone
13 from which the exclusion is proposed; and

14 (c) the municipalities and counties in
15 which the infrastructure development zone is located;

16 (2) the relative cost and benefit to the
17 property to be excluded from the provision of the
18 infrastructure development zone's services;

19 (3) the ability of the infrastructure
20 development zone to provide economical and sufficient services
21 to both the property to be excluded and all of the properties
22 within the infrastructure development zone's boundaries;

23 (4) the effect of denying the petition on
24 employment and other economic conditions in the infrastructure
25 development zone and surrounding area;

.174854.2

underscoring material = new
[bracketed material] = delete

1 (5) the economic impact on the region and on
2 the infrastructure development zone, surrounding area and state
3 as a whole if the petition is denied or the resolution is
4 finally adopted;

5 (6) whether an economically feasible
6 alternative service may be available; and

7 (7) the additional cost to be levied on other
8 property within the infrastructure development zone if the
9 exclusion is granted.

10 D. If the board, after considering all of the
11 factors set forth in Subsection C of this section, determines
12 that the property described in the petition or some portion
13 thereof should be excluded from the infrastructure development
14 zone, it shall order that the petition be granted, in whole or
15 in part; provided that:

16 (1) if the property to be excluded from the
17 infrastructure development zone will be served by a proposed
18 infrastructure development zone that is not yet organized, the
19 board shall not order that the petition be granted until the
20 proposed infrastructure development zone has been organized
21 pursuant to the Infrastructure Development Zone Act, and
22 notwithstanding any other provision of that act to the
23 contrary, the property to be excluded may be included within
24 the boundaries of the proposed infrastructure development zone;
25 and

.174854.2

underscored material = new
[bracketed material] = delete

1 (2) the order of exclusion shall recite in the
2 findings a description of any bonded indebtedness in existence
3 immediately preceding the effective date of the order for which
4 the excluded property is liable and the date that the bonded
5 indebtedness is then scheduled to be retired; provided that a
6 failure of the order for exclusion to recite the existence and
7 scheduled retirement date of the indebtedness, when due to
8 error or omission by the infrastructure development zone, shall
9 not constitute grounds for correction of the omission of a levy
10 on the excluded property from the assessment roll.

11 E. If the board, after considering all of the
12 factors set forth in Subsection C of this section, determines
13 that the property described in the petition should not be
14 excluded from the infrastructure development zone, it shall
15 order that the petition be denied, provided that:

16 (1) any petition that is denied may be
17 appealed to the approving authority for review of the board's
18 decision. The appeal shall be taken no later than thirty days
19 after the decision;

20 (2) upon appeal, the approving authority shall
21 consider the factors set forth in Subsection C of this section
22 and shall make a determination as to whether to exclude the
23 properties mentioned in the petition or resolution based on the
24 record developed at the hearing before the board;

25 (3) the decision of the approving authority

.174854.2

underscored material = new
[bracketed material] = delete

1 may be appealed, within thirty days of the approving
2 authority's decision, to the district court for the county in
3 which the proposed excluded area is located; and

4 (4) upon appeal, the court shall review the
5 record developed at the hearing before the board and, after
6 considering all of the factors set forth in Subsection C of
7 this section, shall make a determination whether to exclude the
8 properties mentioned in the petition or resolution.

9 Section 18. EFFECT OF EXCLUSION ORDER.--

10 A. Territory excluded from an infrastructure
11 development zone pursuant to the provisions of Section 17 of
12 the Infrastructure Development Zone Act shall not be subject to
13 any property tax levied by the board for the operating costs of
14 the infrastructure development zone. For the purpose of
15 retiring the infrastructure development zone's outstanding
16 indebtedness and the interest thereon existing at the effective
17 date of the exclusion order, the infrastructure development
18 zone shall remain intact, and the excluded territory shall be
19 obligated to the same extent as all other property within the
20 infrastructure development zone but only for that proportion of
21 the outstanding indebtedness and the interest thereon existing
22 immediately prior to the effective date of the exclusion order.
23 The board shall levy annually a property tax on all the
24 excluded and remaining property sufficient, together with other
25 funds and revenues of the infrastructure development zone, to

.174854.2

underscored material = new
[bracketed material] = delete

1 pay the outstanding indebtedness and the interest thereon. The
2 board may also establish, maintain, enforce and, from time to
3 time, modify the service charges, tap fees and other rates,
4 fees, tolls and charges, upon residents or users in the area of
5 the infrastructure development zone as it existed prior to the
6 exclusion as may in the discretion of the board be necessary to
7 supplement the proceeds of the tax assessments in the payment
8 of the outstanding indebtedness and the interest thereon. In
9 no event shall excluded territory of an infrastructure
10 development zone become obligated for the payment of any bonded
11 indebtedness created after the date of the court's exclusion
12 order.

13 B. The change of boundaries of the infrastructure
14 development zone shall not impair nor affect its organization,
15 nor shall it affect, impair or discharge any contract,
16 obligation, lien or charge on which it might be liable or
17 chargeable had the change of boundaries not been made.

18 Section 19. DISSOLUTION.--

19 A. The infrastructure development zone shall be
20 dissolved by a resolution of the board upon a determination
21 that each of the following conditions exist:

22 (1) all improvements owned by the
23 infrastructure development zone have been, or provision has
24 been made for all improvements to be, conveyed to the
25 municipality or county in which the infrastructure development

.174854.2

underscored material = new
[bracketed material] = delete

1 zone, or the applicable part thereof, is located;

2 (2) either the infrastructure development zone
3 has no outstanding bond obligations or the municipality or
4 county has assumed all of the outstanding bond obligations of
5 the infrastructure development zone; and

6 (3) all obligations of the infrastructure
7 development zone pursuant to any development agreement with the
8 municipality or county have been satisfied.

9 B. All property in the infrastructure development
10 zone that is subject to the lien of taxes or special
11 assessments shall remain subject to the lien for the payment of
12 general obligation bonds and special assessment bonds,
13 notwithstanding dissolution of the infrastructure development
14 zone. The infrastructure development zone shall not be
15 dissolved if any revenue bonds of the infrastructure
16 development zone remain outstanding unless an amount of money
17 sufficient, together with investment income thereon, to make
18 all payments due on the revenue bonds either at maturity or
19 prior redemption has been deposited with a trustee or escrow
20 agent and pledged to the payment and redemption of the bonds.
21 The infrastructure development zone may continue to operate
22 after dissolution only as needed to collect money and make
23 payments on any outstanding bonds.

24 Section 20. ELECTIONS.--

25 A. Except as provided otherwise in the

.174854.2

underscored material = new
[bracketed material] = delete

1 Infrastructure Development Zone Act, the provisions of the
2 Election Code shall govern all elections conducted pursuant to
3 the Infrastructure Development Zone Act.

4 B. At an election for the organization of a new
5 infrastructure development zone, the approving authority shall
6 also order the submission of the proposition of issuing general
7 obligation bonds or creating other general obligation
8 indebtedness if the petition filed pursuant to Section 3 of the
9 Infrastructure Development Zone Act requests that the questions
10 be submitted at the organization election.

11 C. After an infrastructure development zone is
12 organized and the first board is elected, the board shall
13 govern the conduct of all subsequent regular and special
14 elections of the infrastructure development zone and shall
15 render all interpretations and make all decisions as to
16 controversies or other matters arising in the conduct of the
17 elections.

18 D. Special elections may be conducted by the board
19 after publication and notice no less than thirty days prior to
20 the date of the election. The notice shall be mailed to all
21 eligible electors and shall state:

22 (1) the date, time and place of the special
23 election;

24 (2) a summary of the question or questions to
25 be voted upon; and

.174854.2

underscoring material = new
[bracketed material] = delete

1 (3) how an eligible elector may obtain a copy
2 of the resolution of the board in which the special election
3 was approved.

4 E. All powers and authority granted to the board by
5 this section for the conduct of regular or special elections
6 may be exercised in the absence of the board by the secretary
7 or by an assistant secretary appointed by the board. The
8 person named by the board who is responsible for the conducting
9 of the election shall be the designated election official.

10 F. Not less than seventy-five days nor more than
11 ninety days before a regular infrastructure development zone
12 election, the designated election official shall provide notice
13 by publication of a call for nominations for the election. The
14 call shall state the director offices to be voted upon at the
15 election, where a self-nomination and acceptance form may be
16 obtained, the deadline for submitting the self-nomination and
17 acceptance form to the designated election official and
18 information on obtaining an absentee ballot.

19 G. Not less than sixty-seven days before the date
20 of the regular infrastructure development zone election, any
21 person who desires to be a candidate for the office of a
22 director shall file a self-nomination and acceptance form or
23 letter signed by the candidate and by an eligible elector as a
24 witness to the signature of the candidate.

25 H. On the date of signing the self-nomination and

.174854.2

underscored material = new
[bracketed material] = delete

1 acceptance form or letter, a candidate for director shall be an
2 eligible elector of the infrastructure development zone.

3 I. The self-nomination and acceptance form or
4 letter shall state the name of the infrastructure development
5 zone in which the election will be held, the director office
6 sought by the candidate, the term of office sought if more than
7 one length of a director's term is to be voted upon at the
8 election, the date of the election and the full name of the
9 candidate as it is to appear on the ballot. Unless physically
10 unable, all candidates and witnesses shall sign their own
11 signature and shall print their names, their respective
12 residence addresses, including the street number and name, the
13 city or town, the county, telephone number and the date of
14 signature on the self-nomination and acceptance form or letter.

15 J. The self-nomination and acceptance form or
16 letter shall be filed with the designated election official or,
17 if none has been designated, the presiding officer or the
18 secretary of the board.

19 K. No person shall be permitted to vote in any
20 election unless that person is an eligible elector.

21 Section 21. DIRECTORS--TERMS--ORGANIZATION OF BOARD.--

22 A. Of the initial board members, two directors
23 shall serve until they or their successors are elected and
24 qualified at the next regular election occurring in any year
25 following that in which the infrastructure development zone was

.174854.2

underscored material = new
[bracketed material] = delete

1 organized, and three shall serve until they or their successors
2 are elected and qualified at the second regular election after
3 organization. At its first meeting, the directors shall draw
4 lots to determine the initial terms.

5 B. The basic term of office for directors, after
6 the original terms provided in Subsection A of this section,
7 shall be four years.

8 C. At its first meeting, the board shall elect one
9 of its members as chair of the board and president of the
10 infrastructure development zone, one of its members as a
11 treasurer of the board and of the infrastructure development
12 zone and a secretary who may be a member of the board. The
13 secretary and the treasurer may be one person, but, if that is
14 the case, the position shall be filled by a member of the
15 board.

16 D. The secretary shall keep a record of all the
17 board's proceedings, minutes of all meetings, certificates,
18 contracts, bonds given by employees and all corporate acts,
19 which shall be open to inspection of all eligible electors, as
20 well as to all other interested parties.

21 E. The treasurer shall keep strict and accurate
22 accounts of all money received by and disbursed for and on
23 behalf of the infrastructure development zone in permanent
24 records.

25 F. Each director may receive as compensation for
.174854.2

underscoring material = new
[bracketed material] = delete

1 the director's service a sum not to exceed one hundred dollars
2 (\$100) per meeting attended or one thousand six hundred dollars
3 (\$1,600) per year.

4 G. The board shall meet regularly at a time and in
5 a place to be designated by the board. Special meetings may be
6 held as often as the needs of the infrastructure development
7 zone require, upon notice to each director. All official
8 business of the board shall be conducted only during regular or
9 special meetings at which a quorum is present, and all meetings
10 shall be open to the public and comply with the Open Meetings
11 Act.

12 H. The office of the infrastructure development
13 zone shall be at some fixed place to be determined by the
14 board.

15 I. Any vacancy on the board shall be filled by
16 appointment by the remaining directors, the appointee to serve
17 until the next regular election, at which time the vacancy
18 shall be filled by election for any remaining unexpired portion
19 of the term. If, within sixty days of the occurrence of any
20 vacancy, the board fails, neglects or refuses to appoint a
21 director from the pool of any duly qualified, willing
22 candidates, the approving authority shall appoint a director to
23 fill the vacancy; provided that, if there are no duly elected
24 directors and if the failure to appoint a new board will result
25 in the interruption of services that are being provided by the

.174854.2

underscored material = new
[bracketed material] = delete

1 infrastructure development zone, then the approving authority
2 shall appoint all directors from the pool of duly qualified,
3 willing candidates.

4 J. Any director elected to the board of an
5 infrastructure development zone who has actually held office
6 for at least six months may be recalled from office by the
7 eligible electors of the infrastructure development zone. A
8 petition signed by the lesser of three hundred eligible
9 electors or forty percent of the eligible electors demanding
10 the recall of any director named in the petition shall be filed
11 with the board and the election shall be governed by the
12 provisions of Section 20 of the Infrastructure Development Zone
13 Act.

14 Section 22. GENERAL POWERS.--Except as limited by the
15 service plan of the infrastructure development zone, the board
16 has the following powers:

- 17 A. to have perpetual existence;
18 B. to have and use a corporate seal;
19 C. to sue and be sued and to be a party to suits,
20 actions and proceedings;
21 D. to enter into contracts and agreements affecting
22 the affairs of the infrastructure development zone, except as
23 otherwise provided in the Infrastructure Development Zone Act;
24 E. to borrow money and incur indebtedness and
25 evidence the same by certificates, notes or debentures, and to

.174854.2

underscoring material = new
[bracketed material] = delete

1 issue bonds, including revenue bonds, in accordance with the
2 provisions of Sections 27, 28 and 29 of the Infrastructure
3 Development Zone Act, and to invest money of the infrastructure
4 development zone in accordance with law;

5 F. to acquire, dispose of and encumber real and
6 personal property, including rights and interests in property,
7 leases and easements necessary to the functions or the
8 operation of the infrastructure development zone; provided that
9 the board shall not pay more than fair market value and
10 reasonable settlement costs for any interest in real property
11 and shall not pay for any interest in real property that must
12 otherwise be dedicated for public use or the infrastructure
13 development zone's use in accordance with any governmental
14 ordinance, rule or law;

15 G. to refund any bonded indebtedness as provided in
16 the Infrastructure Development Zone Act;

17 H. to have the management, control and supervision
18 of all the business and affairs of the infrastructure
19 development zone and all construction, installation, operation
20 and maintenance of infrastructure development zone
21 improvements;

22 I. to appoint, hire and retain agents, employees,
23 engineers, managers, attorneys and consultants;

24 J. to fix and from time to time to increase or
25 decrease fees, rates, tolls, penalties or charges for services,

.174854.2

underscored material = new
~~[bracketed material] = delete~~

1 programs or facilities furnished by the infrastructure
2 development zone. The board may pledge the revenue for the
3 payment of any indebtedness of the infrastructure development
4 zone. Until paid, all the fees, rates, tolls, penalties or
5 charges shall constitute a perpetual lien on and against the
6 property served, and any lien may be foreclosed in the same
7 manner as provided by the laws for the foreclosure of
8 mechanics' liens. Notwithstanding any other provision to the
9 contrary, the board may waive or amortize all or part of the
10 tap fees and connection fees or extend the time period for
11 paying all or part of the fees for property within the
12 infrastructure development zone in order to facilitate the
13 construction, ownership and operation of affordable housing on
14 the property, as affordable housing is defined by resolution
15 adopted by the board. However, the board shall have the
16 authority to condition the waiver, amortization or extension
17 upon the recordation against the property of a deed
18 restriction, lien or other lawful instrument requiring the
19 payment of the fees in the event that the property's use as
20 affordable housing is discontinued or no longer meets the
21 definition of affordable housing as established by the board;
22 K. to furnish services and facilities without the
23 boundaries of the infrastructure development zone and to
24 establish fees, rates, tolls, penalties or charges for the
25 services and facilities;

.174854.2

underscoring material = new
[bracketed material] = delete

1 L. to accept, on behalf of the infrastructure
2 development zone, real or personal property for the use of the
3 infrastructure development zone and to accept gifts and
4 conveyances made to the infrastructure development zone upon
5 the terms or conditions as the board may approve;

6 M. to adopt, amend and enforce bylaws and rules not
7 in conflict with the constitution and laws of this state for
8 carrying on the business, objects and affairs of the board and
9 of the infrastructure development zone;

10 N. to have and exercise all rights and powers
11 necessary or incidental to or implied from the specific powers
12 granted to infrastructure development zones by the
13 Infrastructure Development Zone Act. The specific powers shall
14 not be considered as a limitation upon any power necessary or
15 appropriate to carry out the purposes and intent of the
16 Infrastructure Development Zone Act;

17 O. to authorize the use of electronic records or
18 signatures and adopt rules, standards, policies and procedures
19 for use of electronic records or signatures;

20 P. to enter into contracts with public utilities,
21 cooperative electric associations and municipalities for the
22 purpose of furnishing street-lighting service;

23 Q. to erect and maintain, in providing safety
24 protection services, traffic and safety controls and devices on
25 streets and highways and at railroad crossings, and to enter

.174854.2

underscored material = new
[bracketed material] = delete

1 into agreements with each county in which an infrastructure
2 development zone is located or with adjoining counties, the
3 department of transportation or railroad companies for the
4 erection of the safety controls and devices and for the
5 construction of underpasses or overpasses at railroad
6 crossings;

7 R. to finance line extension charges for new
8 telephone construction for the purpose of furnishing telephone
9 service exclusively in infrastructure development zones that
10 have no property zoned or valued for assessment as residential;

11 S. to finance payment of incremental directional
12 drilling costs for oil and gas wells drilled within the
13 infrastructure development zone's service area;

14 T. to exercise the power of eminent domain pursuant
15 to the Eminent Domain Code, both within and without the
16 infrastructure development zone, provided that this power may
17 be exercised only for the purposes of fire protection,
18 sanitation, street improvements, television relay and
19 translator facilities, water or water and sanitation;

20 U. to establish, maintain and operate a system to
21 transport the public by bus, rail or any other means of
22 conveyance, or any combination thereof;

23 V. to furnish security services for any area within
24 the infrastructure development zone. This power may be
25 exercised only after the infrastructure development zone has

.174854.2

underscored material = new
[bracketed material] = delete

1 provided written notification to, consulted with and obtained
2 the written consent of all local law enforcement agencies
3 having jurisdiction within the area. Any local law enforcement
4 agency having jurisdiction within the area may subsequently
5 withdraw its consent after consultation with and providing
6 written notice of the withdrawal to the board;

7 W. to furnish covenant enforcement and design
8 review services within the infrastructure development zone only
9 if the revenues used to furnish the services are derived from
10 the area in which the service is furnished; and

11 X. to provide activities in support of business
12 recruitment, management and development within the
13 infrastructure development zone.

14 Section 23. PARK AND RECREATIONAL SERVICES--ADDITIONAL
15 POWERS--LIMITATIONS.--In addition to the powers specified in
16 Section 22 of the Infrastructure Development Zone Act, if
17 within the scope of the service plan, the board has the
18 following powers for and on behalf of the infrastructure
19 development zone:

20 A. to operate a system of television relay and
21 translator facilities and to use, acquire, equip and maintain
22 land, buildings and other recreational facilities therefor; and

23 B. to use the power granted in Section 22 of the
24 Infrastructure Development Zone Act for the establishment of
25 recreational facilities, including leases, easements and other

.174854.2

underscored material = new
[bracketed material] = delete

1 interests in land for the preservation or conservation of
2 sites, scenes, open space and vistas of recreational,
3 scientific, historic, aesthetic or other public interest. As
4 used in this subsection, "interests in land" means any rights
5 and interests in land less than the full fee interest,
6 including future interests, easements, covenants and
7 contractual rights. Every interest in land, held pursuant to
8 this subsection, when recorded shall be deemed to run with the
9 land to which it pertains for the benefit of the park and
10 recreation services of the infrastructure development zone and
11 may be protected and enforced by the infrastructure development
12 zone in any court of general jurisdiction by any proceeding
13 known at law or in equity.

14 Section 24. SANITATION, WATER AND SANITATION OR WATER
15 SERVICES--ADDITIONAL POWERS.--In addition to the powers
16 specified in Section 22 of the Infrastructure Development Zone
17 Act, the board, if within the scope of the service plan, has
18 the following powers relating to sanitation, water and
19 sanitation and water services for and on behalf of the
20 infrastructure development zone:

21 A. to compel the owner of premises located within
22 the boundaries of the infrastructure development zone, whenever
23 necessary for the protection of public health, to connect the
24 owner's premises, in accordance with the state codes, to the
25 sewer, water and sewer, or water lines, as applicable, of the

.174854.2

underscoring material = new
[bracketed material] = delete

1 infrastructure development zone within twenty days after
2 written notice is sent by registered mail, if the sewer or
3 water line is within four hundred feet of the premises. If the
4 connection is not begun within twenty days, the board may
5 thereafter connect the premises to the sewer, water and sewer,
6 or water system, as applicable, of the infrastructure
7 development zone and shall have a perpetual lien on and against
8 the premises for the cost of making the connection. The lien
9 may be foreclosed in the same manner as provided by the laws of
10 this state for the foreclosure of mechanics' liens; provided
11 that nothing in this subsection shall be construed as
12 authorizing the board of an infrastructure development zone to
13 compel any connection with the sewer, water and sewer, or water
14 lines, as applicable, of the infrastructure development zone,
15 by any owner of premises located outside of the infrastructure
16 development zone who utilizes private or nongovernmental
17 persons, services, systems or facilities;

18 B. to divide the infrastructure development zone
19 into areas according to the water or sanitation services
20 furnished or to be furnished therein. The board has the power
21 to fix different rates, fees, tolls or charges and different
22 rates of levy for tax purposes against all of the taxable
23 property within the several areas of the infrastructure
24 development zone according to the services and facilities
25 furnished or to be furnished therein within a reasonable time.

.174854.2

underscoring material = new
[bracketed material] = delete

1 In addition, if the board finds it infeasible, impracticable or
2 undesirable for the good of the entire infrastructure
3 development zone to extend water or sewer lines and facilities
4 to any part of the infrastructure development zone, the board
5 may designate by resolution the area not to be served with
6 water or sanitation service, but the area designated not to be
7 served shall be at least ten acres in extent;

8 C. if the board divides an infrastructure
9 development zone into areas according to the facilities and
10 services furnished or to be furnished, to determine the amount
11 of money necessary to be raised by taxation within each area,
12 taking into consideration other sources of revenue within the
13 area, and to fix a levy that, when levied upon every dollar of
14 the valuation for assessment of taxable property within the
15 area of the infrastructure development zone, will supply funds
16 for the payments of the costs of acquiring, operating and
17 maintaining the services or facilities furnished in the area
18 and will pay promptly, when due, the principal or interest on
19 bonds or other obligations issued and its pro rata share of the
20 general operating expenses of the infrastructure development
21 zone;

22 D. to establish, construct, operate and maintain
23 works and facilities across or along any public street or
24 highway, and in, upon or over any vacant public lands and
25 across any stream of water or watercourse. The governing body

.174854.2

underscoring material = new
[bracketed material] = delete

1 of a county in which any public streets or highways are
2 situated, which are to be cut into or excavated in the
3 construction or maintenance of any the facilities, has
4 authority to adopt by resolution the rules as it deems
5 necessary in regard to the excavations and may require the
6 payment of reasonable fees by the infrastructure development
7 zone as may be fixed by the governing body to ensure proper
8 restoration of the streets or highways;

9 E. to assess reasonable penalties for delinquency
10 in the payment of rates, fees, tolls or charges or for any
11 violations of the rules of the infrastructure development zone
12 together with interest on delinquencies from any date due at
13 not more than one percent per month or fraction thereof; to
14 shut off or discontinue water or sanitation service for the
15 delinquencies and delinquencies in the payment of taxes or for
16 any violation of the rules of the infrastructure development
17 zone; and to provide for the connection with and the
18 disconnection from the facilities of the infrastructure
19 development zone;

20 F. to acquire water rights and construct and
21 operate lines and facilities within and without the
22 infrastructure development zone;

23 G. to fix and from time to time to increase or
24 decrease tap fees. The board may pledge the revenue for the
25 payment of any indebtedness of the infrastructure development

.174854.2

underscoring material = new
[bracketed material] = delete

1 zone; and

2 H. to assess availability of service or facilities
3 charges subject to the following provisions:

4 (1) no fee, rate, toll or charge for
5 connection to or use of services or facilities of the
6 infrastructure development zone shall be considered an
7 availability of service or facilities charge;

8 (2) any availability of service or facilities
9 charges shall be made only when a notice, stating that the
10 availability of service or facilities charges are being
11 considered and stating the date, time and place of the meeting
12 at which they are to be considered, has been mailed by
13 first-class United States mail, postage prepaid, to each
14 taxpaying elector of the infrastructure development zone at the
15 taxpaying elector's last-known address, as disclosed by the tax
16 records of the county within which the infrastructure
17 development zone is located;

18 (3) availability of service or facilities
19 charges shall be assessed solely for the purpose of paying
20 principal of and interest on any outstanding indebtedness or
21 bonds of the infrastructure development zone and shall not be
22 used to pay any operation or maintenance expenses of, nor
23 capital improvements within or for, the infrastructure
24 development zone;

25 (4) availability of service or facilities

.174854.2

underscored material = new
[bracketed material] = delete

1 charges shall be assessed only where water, sewer or both water
2 and sewer lines are installed and ready for connection within
3 one hundred feet of any property line of the residential lot or
4 residential lot equivalent to be assessed, but to one or both
5 of which line or lines the particular lot or lot equivalent to
6 be assessed is not connected; and

7 (5) availability of service or facilities
8 charges shall be a percentage, not to exceed fifty percent, of
9 the fees, rates, tolls or charges for use of services or
10 facilities of the infrastructure development zone, said
11 percentage to be determined by the board. If the fees, rates,
12 tolls or charges for the use of services or facilities vary
13 dependent upon quantities of usage, the availability of service
14 or facilities charges shall be a percentage, determined by the
15 board, not to exceed fifty percent, of the average usage
16 derived by dividing the total usage quantity for the
17 infrastructure development zone for the last preceding fiscal
18 year by the total number of users in the infrastructure
19 development zone. In addition, the aggregate amount of revenue
20 budgeted and expected to be derived from availability of
21 service or facilities charges shall not exceed the total amount
22 of principal of and interest on the outstanding indebtedness or
23 bonds of the infrastructure development zone for the service
24 currently budgeted for and to mature or accrue during the
25 annual period within which the availability of service or

.174854.2

underscored material = new
[bracketed material] = delete

1 facilities charges are payable, less the amount budgeted and
2 expected to be produced during the period by the mill levy
3 allocable to the service then being budgeted for and levied and
4 assessed by the infrastructure development zone.

5 Section 25. SUBDISTRICTS.--

6 A. The board may divide the infrastructure
7 development zone into one or more areas consistent with the
8 services to be furnished therein. However, any facility
9 operated by the infrastructure development zone within the area
10 may be used by any resident of the infrastructure development
11 zone for the same fee charged to persons residing within the
12 area. Whenever the board divides the infrastructure
13 development zone into one or more areas pursuant to this
14 section, the board shall provide notification of the action to
15 each governing body with zoning jurisdiction over territory
16 included in the infrastructure development zone. Each
17 governing body that is entitled to the notification may elect,
18 within thirty days after the notification, to treat the action
19 as a material modification of the infrastructure development
20 zone service plan in accordance with Section 14 of the
21 Infrastructure Development Zone Act.

22 B. Any area created pursuant to this section shall
23 be a subdistrict of the infrastructure development zone. A
24 subdistrict shall be an independent political subdivision,
25 shall act pursuant to the provisions of the Infrastructure

.174854.2

underscoring material = new
[bracketed material] = delete

1 Development Zone Act and shall possess all of the rights,
2 privileges and immunities of the infrastructure development
3 zone. The subdistrict shall be subject to the service plan of
4 the infrastructure development zone.

5 C. The board of the infrastructure development zone
6 shall constitute ex officio the board of directors of the
7 subdistrict. The presiding officer of the board shall be ex
8 officio the presiding officer of the subdistrict, the secretary
9 of the board shall be ex officio the secretary of the
10 subdistrict and the treasurer of the board shall be ex officio
11 the treasurer of the subdistrict. The debt of the subdistrict
12 shall be treated separately from the debt of the infrastructure
13 development zone and shall not be treated as debt of the
14 infrastructure development zone; provided that the total debt
15 of the infrastructure development zone and all subdistricts
16 shall not exceed any debt limits specified in the service plan
17 of the infrastructure development zone.

18 D. The board shall make any determination specified
19 in Subsection A of this section by resolution adopted at a
20 regular or special meeting of the board after publication of
21 notice of the purpose of the public meeting and the place, time
22 and date of the meeting.

23 E. No resolution dividing the infrastructure
24 development zone into one or more subdistricts shall be adopted
25 by the board if a petition objecting to the division is signed

.174854.2

underscored material = new
[bracketed material] = delete

1 by the owners of taxable real and personal property, consisting
2 of more than fifty percent of the total valuation for
3 assessment of all taxable real and personal property within the
4 proposed subdistrict boundaries, and is filed with the board no
5 later than five days prior to the public meeting; provided,
6 however, that the board may change the geographical boundaries
7 of the subdistrict at the public meeting.

8 F. If taxes are to be levied or debt is to be
9 created within a subdistrict of the infrastructure development
10 zone, the board shall submit a ballot issue approving the taxes
11 or debt to the eligible electors within the subdistrict at a
12 regular infrastructure development zone election or at a
13 special election.

14 Section 26. REVENUES.--The projects to be constructed or
15 acquired as shown in the service plan may be financed from the
16 following sources of revenue:

17 A. proceeds received from the sale of bonds of the
18 infrastructure development zone;

19 B. money of the municipality or county contributed
20 to the infrastructure development zone;

21 C. annual property taxes or special assessments;

22 D. state or federal grants or contributions;

23 E. private contributions;

24 F. user, landowner and other fees, tolls and
25 charges;

.174854.2

underscoring material = new
[bracketed material] = delete

- 1 G. proceeds of loans or advances; and
- 2 H. any other money available to the infrastructure
- 3 development zone by law.

4 Section 27. GENERAL OBLIGATION BONDS--TAX LEVY--
5 EXCEPTION.--

6 A. At any time after the organization of the
7 infrastructure development zone, the board may order and call a
8 general obligation bond election to submit to the eligible
9 electors the question of authorizing the infrastructure
10 development zone to issue general obligation bonds of the
11 infrastructure development zone to provide money for any
12 services consistent with the service plan. If included in the
13 petition filed pursuant to Section 3 of the Infrastructure
14 Development Zone Act, the question of authorizing general
15 obligations bonds may also be held in conjunction with the
16 organization election.

17 B. If general obligation bonds are approved at an
18 election, the board may issue and sell general obligation bonds
19 of the infrastructure development zone.

20 C. Bonds may be sold in a public offering or in a
21 negotiated sale.

22 D. After the bonds are issued, the board shall
23 enter in its minutes a record of the bonds sold and their
24 numbers and dates and shall annually levy and cause a property
25 tax to be collected, at the same time and in the same manner as

.174854.2

underscoring material = new
[bracketed material] = delete

1 other property taxes are levied and collected on all taxable
2 property in the infrastructure development zone, sufficient,
3 together with any money from the sources described in Section
4 26 of the Infrastructure Development Zone Act to pay debt
5 service on the bonds when due. Money derived from the levy of
6 property taxes that are pledged to pay the debt service on the
7 bonds shall be kept separately from other funds of the
8 infrastructure development zone. Property tax revenues not
9 pledged to pay debt service on bonds may be used to pay other
10 costs of the infrastructure development zone, including costs
11 of organization, administration, operation and maintenance,
12 services or enhanced services. An infrastructure development
13 zone's levy of property taxes shall constitute a lien on all
14 taxable property within the infrastructure development zone,
15 including all leased property or improvements to leased land,
16 which shall be subject to foreclosure in the same manner as
17 other property tax liens under the laws of this state. The
18 lien shall include delinquencies and interest thereon at a rate
19 not to exceed ten percent per year, the actual costs of
20 foreclosure and any other costs of the infrastructure
21 development zone resulting from the delinquency. The proceeds
22 of any foreclosure sale shall be deposited in the special bond
23 fund for payment of any obligations secured thereby.

24 E. Subject to the election requirements of this
25 section, an infrastructure development zone may issue general

.174854.2

underscoring material = new
[bracketed material] = delete

1 obligation bonds at such times and in such amounts as the
2 infrastructure development zone deems appropriate to carry out
3 a project or projects in phases.

4 F. Pursuant to this section, the infrastructure
5 development zone may issue and sell refunding bonds to refund
6 general obligation bonds of the infrastructure development zone
7 authorized by the Infrastructure Development Zone Act. No
8 election is required in connection with the issuance and sale
9 of refunding bonds. Refunding bonds issued pursuant to this
10 section shall have a final maturity date no later than the
11 final maturity date of the bonds being refunded.

12 Section 28. SPECIAL ASSESSMENT--BONDS--IMPOSITION.--

13 A. At any time after the organization of the
14 infrastructure development zone, the board may from time to
15 time order that a hearing be held to determine whether a
16 special assessment should be imposed and special assessment
17 bonds issued to provide money for any services consistent with
18 the service plan. The question of imposing a special
19 assessment may be considered at the hearing on infrastructure
20 development zone organization upon notice that both issues will
21 be heard at that time, which notice shall include the
22 information required in Subsection B of this section.

23 B. Notice of hearing shall be provided by
24 publication of a notice at least two weeks in advance of the
25 hearing itself. The notice shall include the following:

.174854.2

underscored material = new
[bracketed material] = delete

1 (1) a description of the method by which the
2 amount of the proposed special assessment will be determined
3 for each class of property to which the levy is proposed to
4 apply, in sufficient detail to enable the owner of the affected
5 parcel to determine the amount of the special assessment;

6 (2) a description of the project to be
7 financed with special assessment bonds or revenues; and

8 (3) a statement that any person affected by
9 the proposed special assessment may object in writing or in
10 person at the hearing.

11 C. Special assessment bonds may be sold in a public
12 offering or in a negotiated sale.

13 D. After the bonds are issued, the board shall
14 enter in its minutes a record of the bonds sold and their
15 numbers and dates, and shall annually impose and cause a
16 special assessment to be collected, at the same time and in the
17 same manner as property taxes are levied and collected on all
18 property within the infrastructure development zone that may be
19 subject to the assessment, including all leased property or
20 improvements to leased land, sufficient, together with any
21 other money lawfully available to pay debt service on the bonds
22 when due, except to the extent that the board has provided for
23 other imposition, collection and foreclosure procedures in
24 connection with special assessments. Money derived from the
25 imposition of the special assessment when collected that is

.174854.2

underscored material = new
[bracketed material] = delete

1 pledged to pay the debt service on the bonds shall be kept
2 separately from other funds of the infrastructure development
3 zone. Special assessment revenues not pledged to pay debt
4 service on bonds may be used to pay other costs of the
5 infrastructure development zone, including costs of
6 organization, administration, operation and maintenance,
7 service or enhanced services.

8 E. The board shall specify conditions under which
9 the obligation to pay special assessments may be prepaid and
10 permanently satisfied.

11 F. Special assessments against privately owned
12 residential property shall be subject to the following
13 provisions:

14 (1) the maximum amount of special assessment
15 that may be imposed shall not be increased over time by an
16 amount exceeding two percent per year, except that the amount
17 of special assessment actually imposed may be increased by up
18 to ten percent as a result of the delinquency or default by the
19 owner of any other parcel within the infrastructure development
20 zone;

21 (2) the special assessment shall be imposed
22 for a specified time period, after which no further special
23 assessment shall be imposed and collected, except that special
24 assessments imposed solely to finance the cost of ongoing
25 infrastructure development zone services, maintenance or

.174854.2

underscoring material = new
[bracketed material] = delete

1 operations or enhanced services may be levied while such
2 services, maintenance or operations or enhanced services are
3 continuing; and

4 (3) nothing in this subsection shall preclude
5 the establishment of different categories of residential
6 property or changing the amount of the special assessments for
7 a parcel whose size or use is changed. A change in the amount
8 of a special assessment imposed upon a parcel due to a change
9 in its size or use shall not require voter approval if the
10 method for changing the amount of special assessment was
11 approved in the election approving the special assessment in
12 sufficient detail to enable the owner of the affected parcel to
13 determine how the change in size or use of the parcel would
14 affect the amount of the special assessment.

15 G. An infrastructure development zone's imposition
16 of a special assessment shall constitute a lien on the property
17 within the infrastructure development zone subject to the
18 special assessment, including property acquired by the state or
19 its political subdivisions after imposition of the special
20 assessment, which shall be effective during the period in which
21 the special assessment is imposed and shall have priority
22 co-equal to the lien of property taxes. A special assessment
23 shall be subject to foreclosure by the infrastructure
24 development zone at any time after six months following written
25 notice of delinquency to the owner of the real property to

.174854.2

underscoring material = new
[bracketed material] = delete

1 which the delinquency applies. The lien shall include
2 delinquencies, penalties and interest thereon at a rate not to
3 exceed the maximum legal rate of interest per year and
4 penalties otherwise applicable for delinquent property taxes,
5 the infrastructure development zone's actual costs of
6 foreclosure and any other costs of the infrastructure
7 development zone resulting from the delinquency. All rights of
8 redemption applicable to property sold in connection with
9 property tax foreclosures pursuant to the laws of this state
10 shall apply to property sold following foreclosure of a special
11 assessment lien. The portion of proceeds of any foreclosure
12 sale necessary to discharge the lien for the special assessment
13 shall be deposited in the special bond fund for payment of any
14 obligations secured thereby.

15 H. No holder of special assessment bonds issued
16 pursuant to the Infrastructure Development Zone Act may compel
17 any exercise of the taxing power of the infrastructure
18 development zone, municipality or county to pay the bonds or
19 the interest on the bonds. Special assessment bonds issued
20 pursuant to that act are not a debt of the infrastructure
21 development zone, municipality or county, nor is the payment of
22 special assessment bonds enforceable out of any money other
23 than the revenue pledged to the payment of the bonds.

24 I. Subject to the requirements of this section, an
25 infrastructure development zone may issue special assessment

.174854.2

underscoring material = new
[bracketed material] = delete

1 bonds at such times and in such amounts as the board deems
2 appropriate to carry out a project or projects in phases.

3 J. Pursuant to this section, the board may issue
4 and sell refunding bonds to refund any special assessment bonds
5 of the infrastructure development zone authorized by the
6 Infrastructure Development Zone Act. Refunding bonds issued
7 pursuant to this section shall have a final maturity date no
8 later than the final maturity date of the bonds being refunded.

9 Section 29. REVENUE BONDS--FEES AND CHARGES.--

10 A. At any time after the organization of the
11 infrastructure development zone, the board may hold a hearing
12 on the question of authorizing the board to issue one or more
13 series of revenue bonds of the infrastructure development zone
14 to provide money for any public infrastructure purposes
15 consistent with the service plan.

16 B. If revenue bonds are approved by resolution, the
17 board may issue and sell revenue bonds of the infrastructure
18 development zone.

19 C. The revenue bonds may be sold in a public
20 offering or in a negotiated sale; however, if the bonds are to
21 be sold in a public offering, no revenue bonds may be issued by
22 the infrastructure development zone unless the revenue bonds
23 receive one of the four highest investment grade ratings by a
24 nationally recognized bond rating agency.

25 D. The board may pledge to the payment of its

.174854.2

underscoring material = new
[bracketed material] = delete

1 revenue bonds any revenues of the infrastructure development
2 zone or revenues to be collected by the municipality or county
3 in trust for the infrastructure development zone and returned
4 to the infrastructure development zone.

5 E. The infrastructure development zone shall
6 prescribe fees and charges, and shall revise them when
7 necessary, to generate revenue sufficient, together with any
8 money from the sources described in Section 26 of the
9 Infrastructure Development Zone Act, to pay when due the
10 principal and interest of all revenue bonds for the payment of
11 which revenue has been pledged. The establishment or revision
12 of any rates, fees and charges shall be identified and noticed
13 concurrently with the annual budget process of the
14 infrastructure development zone pursuant to Section 31 of the
15 Infrastructure Development Zone Act.

16 F. If, in the resolution of the board, the revenues
17 to be pledged are limited to certain types of revenues, only
18 those types of revenues may be pledged and only those revenues
19 shall be maintained.

20 G. No holder of revenue bonds issued pursuant to
21 the Infrastructure Development Zone Act may compel any exercise
22 of the taxing power of the infrastructure development zone,
23 municipality or county to pay the bonds or the interest on the
24 bonds. Revenue bonds issued pursuant to that act are not a
25 debt of the infrastructure development zone, municipality or

.174854.2

underscoring material = new
[bracketed material] = delete

1 county, nor is the payment of revenue bonds enforceable out of
2 any money other than the revenue pledged to the payment of the
3 bonds.

4 H. Subject to the requirements of this section, an
5 infrastructure development zone may issue revenue bonds at such
6 times and in such amounts as the board deems appropriate to
7 carry out a project in phases.

8 I. Pursuant to this section, the infrastructure
9 development zone may issue and sell refunding bonds to refund
10 revenue bonds of the infrastructure development zone authorized
11 by the Infrastructure Development Zone Act. Refunding bonds
12 issued pursuant to this section shall have a final maturity
13 date no later than the final maturity date of the bonds being
14 refunded.

15 Section 30. TERM OF BONDS.--For any bonds issued in
16 connection with Section 27, 28 or 29 of the Infrastructure
17 Development Zone Act, the board shall prescribe the
18 denominations of the bonds, the principal amount of each issue
19 and the form of the bonds and shall establish the maturities,
20 which shall not exceed thirty years, interest payment dates and
21 interest rates, whether fixed or variable, not exceeding the
22 maximum rate stated in the notice of the election or the
23 resolution of the board. The bonds may be sold by competitive
24 bid or negotiated sale for public or private offering at, below
25 or above par. The proceeds of the bonds shall be deposited

.174854.2

underscored material = new
[bracketed material] = delete

1 with the treasurer, or with a trustee or agent designated by
2 the board, to the credit of the infrastructure development zone
3 to be withdrawn for the purposes provided by the Infrastructure
4 Development Zone Act. Pending that use, the proceeds may be
5 invested as determined by the board. The bonds shall be made
6 payable as to both principal and interest solely from revenues
7 of the infrastructure development zone, and shall specify the
8 revenues pledged for such purposes, and shall contain such
9 other terms, conditions, covenants and agreements as the board
10 deems proper. The bonds may be payable from any combination of
11 taxes, assessments or other revenues collected or received
12 pursuant to the Infrastructure Development Zone Act.

13 Section 31. PETITION FOR TAX REDUCTION--ANNUAL FINANCIAL
14 ESTIMATE--BUDGET--CERTIFICATION TO LOCAL GOVERNMENT DIVISION.--

15 A. Upon presentation to the board of a petition
16 signed by the owners of a majority of the property in the
17 infrastructure development zone, the board shall adopt a
18 resolution to reduce or eliminate the portion of a tax or
19 special assessment, beginning the next fiscal year, required
20 for one or more services specified in the petition. Signatures
21 on a petition to reduce or eliminate a tax or special
22 assessment shall be valid for a period of sixty days.

23 B. When levying a property tax or imposing a
24 special assessment, the board shall make annual statements and
25 estimates of the operation and maintenance expenses of the

.174854.2

underscoring material = new
[bracketed material] = delete

1 infrastructure development zone, the costs of services to be
2 financed by the taxes or special assessment and the amount of
3 all other expenditures for services proposed to be paid from
4 the taxes or special assessment and of the amount to be raised
5 to pay general obligation bonds of the infrastructure
6 development zone or special assessment bonds, all of which
7 shall be provided for by the levy and collection of property
8 taxes on the net taxable value of the real property in the
9 infrastructure development zone or by the imposition and
10 collection of special assessments. The board shall file the
11 annual statements and estimates with the county clerk for each
12 county in the infrastructure development zone. The board shall
13 publish a notice of the filing of the estimate, shall hold
14 hearings on the portions of the estimate not relating to debt
15 service on general obligation bonds or special assessment bonds
16 and shall adopt a budget. The board, on or before the date set
17 by law for certifying the annual budget of the municipality or
18 county, shall fix, levy and assess the amounts to be raised by
19 property taxes or special assessments of the infrastructure
20 development zone and shall cause certified copies of the order
21 to be delivered to the local government division of the
22 department of finance and administration. All statutes
23 relating to the levy and collection of property taxes,
24 including the collection of delinquent taxes and sale of
25 property for nonpayment of taxes, apply to infrastructure

.174854.2

underscoring material = new
[bracketed material] = delete

1 development zone property taxes and to special assessments,
2 except to the extent that the board has provided for other
3 imposition, collection and foreclosure procedures in connection
4 with special assessments.

5 Section 32. BONDS NOT OBLIGATION OF STATE.--Except as
6 otherwise provided in the Infrastructure Development Zone Act,
7 all bonds or other obligations issued pursuant to that act are
8 payable solely from the revenues of the infrastructure
9 development zone that may be pledged to the payment of such
10 obligations, and the bonds or other obligations shall not
11 create an obligation, debt or liability of the state or any
12 other of its political subdivisions. No breach of any pledge,
13 obligation or agreement of an infrastructure development zone
14 shall impose a pecuniary liability or a charge upon the general
15 credit or taxing power of the state or any other of its
16 political subdivisions.

17 Section 33. CUMULATIVE AUTHORITY.--The Infrastructure
18 Development Zone Act shall be deemed to provide an additional
19 and alternative method for the doing of things authorized by
20 that act, and shall be regarded as supplemental and additional
21 to powers conferred by other laws and shall not be regarded as
22 in derogation of any powers now existing; provided that the
23 issuance of bonds under the provisions of the Infrastructure
24 Development Zone Act need not comply with the requirements of
25 any other law applicable to the issuance of bonds.

.174854.2

